

**ALSTEAD ZONING BOARD OF ADJUSTMENT**  
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**MEETING MINUTES**  
**April 2, 2018**

Note: These minutes are furnished for public inspection in accordance with RSA 91-A:2 and are unapproved until offered for disposition by the Board at a regular meeting. **ACCEPTED AS CORRECTED 5/7/18.**

ZBA Members present: Dennis Molesky/Chairman, Joe Cartwright, Kevin Clark, Sam Sutcliffe, and David Konesko /Alternate&PB Member

Molesky/Chairman opened the Meeting at 7:30PM. Emma VanAlstyne was present. The 3/5/18 Minutes were reviewed. A Motion (Cartwright/Clark) was made to accept them as corrected. Motion passed.

\*The Zoning Board needs to draft an official response to the letter received from Benji VanAlstyne dated February 6, 2018. VanAlstyne stated that she went to the last Select Board meeting, and was told by Selectman Tim Noonan that there was nothing the Town was going to do about the DeLotto Variance, even if DeLotto had built too large – that it was a civil matter. VanAlstyne stated that Alan Dustin/Selectman & Zoning Officer had to ask the landowner for permission to go back onto his land to take measurements (per the Town Attorney) – Cartwright stated that the Select Board were instructed to say that by the Town Attorney because of a possible impending lawsuit. Dustin had told both VanAlstyne and Marsden that he would be bringing Hans Waldmann/former Zoning Officer with him on the site visit. Dustin also stated that DeLotto planned to take the green tarped structure down soon; VanAlstyne asked for a specific time frame. Dustin stated that they will go take measurements as soon as the snow recedes and the property pins are visible.

The Board worked on the letter of response to Benji VanAlstyne. Molesky stated that he still felt the Board erred on re-opening the Public Hearing based on the right to increase an existing encroachment by 50%; and that the final decision was inappropriate due to lack of information on the property line concern and the snow issue. VanAlstyne added that no one did calculations or had come to the Hufflings or themselves (the VanAlstynes) regarding concerns with the snow load, yet still proceeded with the Hearing process. VanAlstyne added that the ZBA had asked for letters, but still proceeded to make a decision without them.

Sutcliffe stated that all parties involved should proceed to make things better, to look for a solution, and to get past feelings of anger. Cartwright acknowledged that the Board did ask for letters, and never received them. He added that two Members did go out to the property to look at the existing pins, and based on their locations, made decisions.

Points going into the letter:

1) rehearing request – time for the appeal has elapsed – and the Board has no authority to re-open an Appeal after 30 days (as per RSA 677:2 Motion For Rehearing for Board of Adjustment). Dustin stated he remembered this subject being discussed at previous Select Board meetings. \*Marsden to request the 11/28/17 and 12/5/17 Select Board meeting Minutes. Dustin stated that the Town Attorney said that the Town has the right to go onto a property with a signed Building Permit until the project is completed. Sutcliffe stated he hoped a reasonable solution can be found vs. seeking the building to be removed in civil court. \*There is still uncertainty if the Plan DeLotto presented in December 2017 got recorded – Sutcliffe thought it had been; Dustin thought the intention was to get it recorded.

Dustin asked for clarification on which meeting the VanAlstyne's couldn't make pertaining to this Application and Public Hearing; it was determined it was the March 2016 meeting. Dustin asked for clarification on how a continuation hearing gets notified – he was told letters do not get resent; notices do get posted around town and it is also noted if a meeting is continued. It was pointed out that DeLotto did speak to Benji VanAlstyne during the time frame between the initial meeting, and the continuation hearing meeting, and B. VanAlstyne did speak to Molesky. It was also clarified that no Abutters came to any of the Public Hearing meetings. One letter was received from Rita Pecora Eredics expressing her concerns.

VanAlstyne went back and asked about “the erring that Member Molesky thought had occurred”. Molesky confirmed his feeling that an error had occurred, and offered an apology. VanAlstyne stated that there were 5 things the ZBA asked for, didn't get, yet they still proceeded. Cartwright stated that the Board should only address the Rehearing request in a response letter. Sutcliffe stated he did not feel he erred as a ZBA Member, and that VanAlstyne was being emotional. Molesky stated there was no reason to add an opinion on the matter in the letter – that everyone's position is already on record. Cartwright stated that the Board only needs to answer what has been asked.

The RSA's were looked at again, and RSA 677:3 states that an appellant could get the court to rehear if good cause is shown. VanAlstyne was encouraged to get her deed that discusses the details of the existing Right-of-Way. VanAlstyne wanted to know if the Board's decisions were based off pictures and sketches DeLotto provided, or things he said.

VanAlstyne stated that DeLotto's roof is not complete, and that they are not allowing him to put a ladder on their property. \*VanAlstyne to let Kelly Wright/in the Selectman's Office know when the pin can be seen through the snow.

Konesko stated that the Board has been using the term Right-of-Way as an established traveled way (traveling surface), and this differs from a legal definition of Right-of-Way.

Dustin asked VanAlstyne how she wanted his and Waldmann's findings presented to her. VanAlstyne stated in writing, and at a Select Board's meeting. Dustin to invite the Zoning Board to the Selectman's meeting where the findings will be presented. Dustin stated to VanAlstyne that their participation in the Hearing process would have had an impact on the ZBA's decision. VanAlstyne stated they regretted being too trusting of the neighbor, who they thought was a friend.

A possible zoning amendment for Article VI F 2 was discussed – referring to just because someone has the right to add on to an already existing encroachment per Town Ordinance, it does not always make sense to – and the wording “no building shall become closer than 5' to a property line' should be added to the Ordinance.

At 9:49PM a Motion (Clark/Cartwright) was made to adjourn the Meeting. Motion passed.

Respectfully submitted,

Melanie Marsden/Administrative Assistant

**The next regular meeting is on Monday, 5/7/18 at 7:30PM at the Alstead Municipal Offices.**